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April Wattenbarger

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EXAMINER

PATEL, TAJASH D

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 4, 5, 6, 8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Brother et al. (US 6,485,446). Brother et al. (hereinafter Brother) discloses a protective chest protective device including a shirt/vest (10, 14) that is not limited to being short or long sleeved, col. 7, lines 21-49. Further, a protective element (18) is configured to define a barrier over the clavicle bones, sternum and frontal portion of the rib cage, that is affixed to the shirt as shown in figure 1. In addition, the shirt can be made of natural or synthetic material depending on the intended conditions, col. 7, lines 14-16. Furthermore, it is inherent that the single layer of material of the shirt extends onto the back side when the device is worn.

The protective element is made of a compressive, impact resistant foam material (36) as shown in figure 3. Also, the protective element is stitched to the shirt, col. 7, lines 2-3.

Additionally, the protective element extends about the upper abdomen of the user when the shirt is worn as shown in figure 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brother in view of Marion (US 5,325,537). Brother discloses the invention as set forth above except for showing a chest protector having a shell of hardened plastic being disposed over a foam material.

Marion discloses a chest protective device including a foam material (16) that has a hardened shell of plastic material (62), col. 5, lines 58-60 being disposed over the foam material as shown in figure 2 and 3. In addition, the shell is configured to define a barrier over the clavicle bones, sternum and frontal portion of the rib cage.

It would have been obvious to one skilled in the art at the time the invention was made to provide the shirt of Brother having foam protective element with a plastic shell being disposed thereover as taught by Marion. Doing so, would allow greater force of impact to be absorbed by the shell and the foam material combination or as required for a particular application thereof.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

May 23, 2004



**TEJASH PATEL
PRIMARY EXAMINER**